Status: Point in time view as at 01/02/1991.

Changes to legislation: Highways Act 1980, Section 338 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Highways Act 1980

1980 CHAPTER 66

PART XIV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Savings etc.

338 Saving for works, etc., of dock, harbour and canal undertakers.

(1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies authorises a highway authority or council, without the consent of the dock, harbour or canal undertakers concerned—

　(a)　to execute any works in, across, or under any dock, harbour, basin, wharf, quay or lock; or

　(b)　to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof.

(2) A consent required for the purposes of subsection (1) above shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require it to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

(3) On an arbitration under this section, the arbitrator shall determine—

　(a)　whether any works which the highway authority or council propose to execute are such works as under subsection (1) above they are not entitled to execute without the consent of the undertakers concerned; and

　(b)　if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and

　(c)　if the works are of such a nature, the conditions subject to which the authority or council may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator determines that the proposed works are such works as the highway authority or council are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the authority or council shall not proceed to execute the works; but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator determines.

(4) For the purposes of this section, dock, harbour and canal undertakers are to be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.

(5) This section applies to section 230(7) and section 294 above and to the provisions specified in Schedule 22 of this Act, but subsections (2) and (3) above do not apply as respect a consent required in relation to section 230(7).

(6) In this section "canal" includes inland navigation.

Status:
Point in time view as at 01/02/1991.

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